

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:04-CR-32-1-F

UNITED STATES OF AMERICA,)
)
)
)
v.) ORDER
)
JERMAINE DONNELL KORNEGAY,)
)
)
Defendant.)

Now before the court are Defendant Jermaine Donnell Kornegay's July 5, 2011, September 2, 2011, and April 17, 2013, filings [DE-76, DE-77, DE-89], in which Defendant asks the court to correct a clerical error in its May 5, 2009, order regarding motion for sentence reduction pursuant to 18 U.S.C. § 3582(c)(2) [DE-62], and to apply the Fair Sentencing Act of 2010 to his sentence.

The court has reviewed the order for re-sentencing, and finds that it contains no errors. Defendant's attorney correctly explains the re-sentencing calculation in her memorandum in support of motion to vacate under 28 U.S.C. § 2255. [DE-86 at 3-4.] Further, as Defendant was sentenced *prior to the enactment* of the Fair Sentencing Act, it is not retroactively applicable to him. *United States v. Allen*, – F.3d –, 2013 WL 1777564, at *7 (4th Cir. Apr. 26, 2013) (“[T]he Fair Sentencing Act therefore applies to all sentences imposed *after its enactment*” (emphasis added)).

For the foregoing reasons, it is ORDERED that DE-76, DE-77, and DE-89 are DENIED.

SO ORDERED.

This the 6th day of June, 2013.



James C. Fox
Senior United States District Judge